

### **REMARKS**

Now pending in the application are claims 1 – 28, of which claims 1, 14 and 21 are independent. Applicants appreciate the Examiner's indication of allowable subject matter, specifically claims 1-20. The following comments address all stated grounds of rejection. The Applicants respectfully traverse the rejection and urge the Examiner to pass claims 21-28 to allowance in view of the remarks set forth below.

Applicants respectfully take note that the Examiner does not consider the references cited in the Notice of Cited References to detract from the patentability of the claimed subject matter. With such references not applied by the Examiner, Applicants respectfully request that if the Examiner deems a subsequent office action necessary that the office action be non-final.

#### **Drawings Objection**

The Office Action indicates informal drawings were submitted with the application and requests submission of formal drawings. Submitted herewith are its formal drawings.

#### **Claim Rejections Under 35 U.S.C. §112**

Claims 21-28 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner contends that the use of the limitation “a program” renders claim 21 a method claim and that lines 3 and 6 of the claim, “ a memory test model generator” and “ a memory test model validator”, are structural elements forming an apparatus and as such cannot be parts of a method, specifically “the program.” Applicants respectfully disagree with the Examiner and maintain that the claim is written as a single apparatus claim to which

“a memory test model generator” and “a memory test model validator” are parts of the structure of “the program.”

Claim 21 recites a computer-readable medium that stores a program for automatically generating and validating a memory test model comprising a memory test model generator and a memory test model validator. The language of “a computer-readable medium containing a program” is a recital of the claim in apparatus form and the recital of the term “a program” in the claim defines the physical structure of the apparatus. The computer-readable medium is an apparatus for storing computer programs. A program is a tangible set of computer instructions fixed in a computer-readable medium to carry out a defined set of functionality. A program by itself is not a process or method. When a program is stored on a computer-readable medium it becomes structurally and functionally interrelated to the medium, which permits the program’s functionality to be realized. When a program is recited in combination with a physical structure such as a computer-readable medium, the claim is an apparatus claim.

Since the program is a structural definition of the apparatus, the memory test model generator and the memory test model validator can be structural parts of the program. The Applicants respectfully direct the Examiner to Figure 2. The memory test model generator (12, Fig. 2) and the memory test model validator (14, Fig. 2) are specifically depicted as the two parts of the apparatus (10, Fig. 2).

In light of the view of the claim in its entirety, Claim 21 recites a single apparatus claim and does not recite both an apparatus and method claim as contended by the Examiner. Accordingly, Applicants maintain that Claim 21 particularly points out and distinctly claims the subject matter which Applicants’ regard as their invention and respectfully request the Examiner to reconsider and withdraw the rejection under 35 U.S.C. § 112.

The Examiner rejects Claims 22-28 because of their dependency on Claim 21. For at least the aforementioned reasons, the Applicants respectfully request the Examiner to allow these claims on withdrawal of the rejection under 35 U.S.C. § 112.

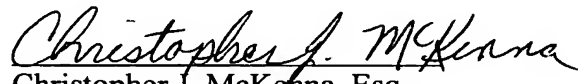
**Conclusion**

In light of the aforementioned arguments, Applicants contend that each of the Examiners rejections has been adequately addressed and the pending application is in condition for allowance.

Should the Examiner feel that a telephone conference with Applicants' attorney would expedite prosecution of this application, the Examiner is urged to contact the Applicants' attorney at (617) 227-7400.

Respectfully submitted,

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